

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE:

JENNIFER COSTA

Debtor

PNC BANK, NATIONAL ASSOCIATION

Movant

v.

JENNIFER COSTA

JAMES M. BOWE (CO-DEBTOR)

Respondent

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BK. No. 17-16838-elf

Chapter No. 13

11 U.S.C. §362 & §1301

**MOTION OF PNC BANK, NATIONAL ASSOCIATION FOR RELIEF FROM AUTOMATIC
STAY AND CO-DEBTOR STAY UNDER §362 AND §1301 PURSUANT TO BANKRUPTCY
PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and Co-Debtor Stay and leave to foreclose on its mortgage on real property owned by Debtor, JENNIFER M. COSTA and Non-Filing Co-Debtor JAMES M. BOWE.

1. Movant is **PNC BANK, NATIONAL ASSOCIATION**.
2. Debtor, JENNIFER M. COSTA and Non-Filing Co-Debtor JAMES M. BOWE are the owners of the premises located at **335 HURST ST, BRIDGEPORT, PA 19405**, hereinafter known as the mortgaged premises.
3. Movant is the holder of a mortgage on the mortgaged premises.
4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
5. Movant instituted foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
6. The foreclosure proceedings were stayed by the filing of the instant Chapter 13 Petition.
7. As of August 7, 2018, Debtor has failed to tender post-petition mortgage payments for the months of June 2018 through August 2018. The monthly payment amount for the

total amount due of \$4,102.30. The next payment is due on or before September 1, 2018 in the amount of \$1,642.23. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant, **PNC BANK, NATIONAL ASSOCIATION**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay and Co-Debtor Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Movant additionally seeks relief from the co-debtor stay under §1301 (c) (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the co-debtor stay.

11. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

12. Movant, its successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the automatic stay.

13. Movant requests that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay and Co-Debtor Stay under Section 362 & 1301 with respect to **335 HURST ST, BRIDGEPORT, PA 19405** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its

b. That relief from any Co-Debtor stay (if applicable) is hereby granted; and

c. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

d. Holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the automatic stay; and

e. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and

f. Granting any other relief that this Court deems equitable and just.

/s/ Jerome Blank, Esquire
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